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MT LEGISLATIVE HISTORY

Chapter 586 1987

Bill H _____ S 118 Original bill & hist. ___C

H. Committee on Business & Labor			S. Committee on Labor & Employment Relations		
Hearing Date(s)	Mar 10	✓C	Hearing Date(s)	Jan 29	✓C
	Mar 17	✓C		_____	___C
	_____	___C		_____	___C
	_____	___C		_____	___C
Date Out	Mar 17	✓C		Jan 29	✓C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

Form CS-32
Rev. 1985

STATUS SHEET

50th LEGISLATIVE SESSION

BUSINESS AND LABOR COMMITTEE

SENATE BILL NUMBER	ENTERED COM. DATE	DATE CON-SIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CON-CURRED IN DATE	BE NOT CON-CURRED IN DATE	BE CON-CURRED IN AMENDED DATE	BE NOT CONCURRED IN AS AMENDED DATE
103	2/24/87	3/11/87	3/12/87					3/12/87			
110	2/4/87	3/6/87	3/6/87					3/6/87			
115	2/18/87	3/6/87	tabled 3/6/87								
118	2/11/87	3/10/87	3/17/87							3/17/87	
130	2/11/87	3/5/87	3/5/87							3/5/87	
138	2/18/87	3/6/87	3/6/87							3/6/87	
140	2/11/87	3/4/87	3/4/87					3/4/87			
182	2/11/87	3/5/87	3/5/87					3/5/87			
186	2/11/87	3/10/87	3/13/87							3/13/87	
188	2/24/87	3/10/87	3/10/87					3/10/87			
198	3/3/87	3/17/87	tabled 3/27/87								
202	2/11/87	3/10/87	3/10/87							3/10/87	
205	3/03/87	3/17/87	tabled 3/17/87								
210	3/3/87	3/18/87	3/18/87							3/18/87	

e a separate sheet for Senate Bills, House Bills, and Resolutions.

that futures in livestock are not regulated through this legislation because they are regulated on a federal level.

Rep. Brandewie asked Ms. Schulke if the phrase "commodity means except as otherwise specified by rule or order of the committee" wasn't too broad. Ms. Schulke responded the definition of commodity in the legislation is intended to be broad to cover all types of scams that might arise.

Rep. Driscoll asked what the penalty was for the scam artists in this. She added enforcement is accomplished through a cease and desist order, the revocation, suspension, or denial of a party's license, and there are criminal penalties in the legislation to deal with those situations.

CLOSING

Senator Weeding stated that the concern of the broadness of the rule making authority on page 2 did not come up in the Senate. He said the Senate's thought was to put some faith in the Securities Commissioner, but will leave that to the Committee's judgement.

SENATE BILL 118 - Extend Penalties Against Employer Without Workers' Compensation Coverage, sponsored by Senator Mike Halligan. Senator Halligan stated this bill was at the request of the Department of Labor and Industry. He said the Department currently has both criminal and civil authority, but this bill clarifies that the Division of Workers' Compensation may concurrently pursue civil and criminal actions against an uninsured employer.

PROPONENTS

Keith Olson, Executive Director, Montana Logging Association. Mr. Olson stated that uninsured employers do a tremendous disservice, they leave injured employees in a terrible spot, and they have a very significant competitive advantage on those that are in compliance with the law.

Steven Shapiro, Chief Legal Counsel, Workers' Compensation Division. Mr. Shapiro stated the purpose of this bill was to clarify civil and criminal penalties provided in statute and provide that these penalties can be pursued concurrently, which is not clear at the present time.

OPPONENTS

None.

QUESTIONS

Rep. Driscoll asked if the Division would object to making this offense a felony. Mr. Shapiro responded he could not speak for the Division. Senator Halligan responded that an injunction is the same as shutting them down, but he has no problem with making the offense a felony.

There was further discussion on the amount of penalties that could be imposed, ramifications of these penalties, and examples of current problems that would be addressed by this legislation.

CLOSING

Sen. Halligan stated that some remedies should be maintained for the Department because the uninsured employer does provide a disadvantage to the other employers in the state, and cause serious problems.

SENATE BILL 188 - Disclosure of Electronic Funds Transaction Pursuant to Subpoena, sponsored by Senator Mike Walker, Senate District 20, Great Falls. Senator Walker stated this bill was at the request of the State Auditor and allows information on electronic funds transactions to be disclosed without consent of a customer after the issuance of a subpoena by a court. He stressed these situations involve securities fraud.

PROPONENTS

Kim Schulke, Deputy Securities Commissioner, presented a review of the bill. Exhibit No. 5.

Mark Murphy, Assistant Attorney General. Mr. Murphy stated the subpoenas mentioned in the legislation are contained within the Criminal Procedure Code. He said these are not the usual type of subpoenas, but are criminal investigative subpoenas.

OPPONENTS

None.

QUESTIONS

Rep. Simon asked Mr. Murphy how much of a problem there was in Montana that would require this legislation. Mr. Murphy responded that any time there is any type of financial investigation which involves examination of bank records, or any business embezzlement, this kind of protection is needed.

QUESTIONS

Rep. Simon asked Senator Keating if the legislation would read properly with the changing of the words "Commissioner of Labor" and "Director of Commerce" in the appropriate sections. Senator Keating responded that it will.

CLOSING

Senator Keating made no further comments.

EXECUTIVE ACTION

ACTION ON SENATE BILL NO. 188

Rep. Brown moved that Senate Bill No. 188 BE CONCURRED IN. The motion carried unanimously.

Rep. Thomas will carry the bill in the House.

ACTION ON SENATE BILL NO. 118

Rep. Hansen moved Senate Bill No. 118 BE CONCURRED IN.

Rep. Brandewie moved a substitute motion that Senate Bill No. 118 be referred to the Workers' Compensation Subcommittee for consideration of the amendment proposed by Gene Fenderson of making it a felony also for employers that default on workers' compensation.

Chairman Kitselman, seeing no objection from the committee, referred Senate Bill No. 118 to the subcommittee with SB 315. The subcommittee consists of Reps. Glaser, Smith, Grinde, Driscoll, and Nisbet, with Rep. Glaser as chairman.

ACTION SENATE BILL 202

Rep. Driscoll moved Senate Bill No. 202 BE CONCURRED IN.

Rep. Brandewie moved to amend SB 202, page 2, lines 24 - 25, following "means" on line 24, strike the remainder of the lines through "commissioner". The motion carried, with Rep. Hansen and Rep. Cohen opposed.

Rep. Brandewie moved Senate Bill No. 202 BE CONCURRED IN AS AMENDED. The motion carried unanimously.

Rep. Brandewie will carry the legislation in the house.

SENATE BILL 328 - Require Department of Administration to Contract Printing Through Montana Businesses, sponsored by Senator Joseph Mazurek, Senate District No. 23, Helena.

DAILY ROLL CALL

BUSINESS & LABOR COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date MARCH 10, 1987

NAME	PRESENT	ABSENT	EXCUSED
REP. LES KITSELMAN, CHAIRMAN	✓		
REP. FRED THOMAS, VICE-CHAIRMAN	✓		
REP. BOB BACHINI	✓		
REP. RAY BRANDEWIE	✓		
REP. JAN BROWN	✓		
REP. BEN COHEN	✓		
REP. JERRY DRISCOLL	✓		
REP. WILLIAM GLASER	✓		
REP. LARRY GRINDE	✓		
REP. STELLA JEAN HANSEN	✓		
REP. TOM JONES	✓		
REP. LLOYD MCCORMICK	✓		
REP. GERALD NISBET	✓		
REP. BOB PAVLOVICH	✓		
REP. BRUCE SIMON	✓		
REP. CLYDE SMITH	✓		
REP. CHARLES SWYSGOOD	✓		
REP. NORM WALLIN	✓		

Deputy Securities Commissioner
444-5236

EX. SB 118

SB 188 - Electronic Funds Transfer information subject to subpoena without customer consent.

Requested by State Auditor and Commissioner of Securities Andrea "Andy" Bennett

SECTION BY SECTION REVIEW

Section 1. Amendment to 32-6-105.

Section 32-6-105, MCA, which this bill amends, currently provides that bank records can be disclosed by a financial institution to any person or government entity only with consent of the customer or, if the customer refuses, with a court-issued subpoena. This means that when the Securities Department, which is a criminal justice agency, is involved in a criminal securities fraud investigation, it must obtain an investigative subpoena issued by a district court judge, and must further obtain an order from the judge directing the financial institution not to disclose the existence of the subpoena to the bank customer.

The proposed amendment would allow the Securities Department to obtain bank records, in connection with a criminal securities fraud investigation without consent of the customer.

The new subsection (2) would relieve the financial institution from liability to the customer or other person for disclosing the information.

Section 2. Extends rulemaking authority to the provisions of this act.

Section 3. Provides an immediate effective date.

JUSTIFICATION

If a bank customer who is the subject of a criminal securities fraud investigation, is advised that the Securities Department is seeking their bank records, they ofcourse, will not give their consent to the bank to provide those records so that we can prove they have committed a felony. In addition, if the bank does advise the customer, he may leave our jurisdiction, intimidate witnesses, or destroy other types of records which

are not maintained at a bank. These records might include customer lists, written sales pitches, correspondence, etc.

In the past two years, subpoenas issued to obtain bank records in connection with specific investigations have helped the Securities Department to determine that approximately $450,000 invested by Montana citizens has been misappropriated by perpetrators of securities fraud. And, in one case, it showed that no misappropriation of funds occurred.

Once the records are obtained, they become confidential criminal justice information, and cannot be disclosed by the Securities Department to anyone other than another criminal justice agency.

VISITORS' REGISTER

BUSINESS AND LABOR COMMITTEE

BILL NO. SENATE BILL NO. 118 DATE MARCH 10, 1987

SPONSOR SENATOR MIKE HALLIGAN

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Steven Shapiro	Dept of Labor	X	
Tom Dorr	[illegible]	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

CS-33

He said another concern was that it was difficult to bill a state agency for any compliance function.

Rep. Simon asked Senator Farrell to explain why the Department of Commerce should be involved when the Department of Administration is the agency that is responsible for the purchasing. Senator Farrell responded that the transportation system was not an easy system to learn.

CLOSING

Senator Farrell made no further comments.

EXECUTIVE ACTION

ACTION ON SENATE BILL NO. 222

Rep. Driscoll moved that Senate Bill No. 222 BE CONCURRED IN. The motion carried unanimously.

ACTION ON SENATE BILL NO. 118

Rep. Glaser moved that Senate Bill NO. 118 BE CONCURRED IN.

Rep. Glaser moved the amendments. The motion carried unanimously. See Standing Committee Report.

Rep. Grinde commented that this was good legislation because the worker is always getting blamed for the fraud that goes on and this bill will take care of both the employer and the employee and put some enforcement in it. He said, under this bill, the employer is also liable in that he has to start reporting all the people that work under him. He added that this is a good compromise situation where both the employer and the employee are both going to be liable if there is an intentional problem.

Rep. Glaser moved that Senate Bill No. 118 BE CONCURRED IN AS AMENDED. The motion carried unanimously.

ACTION ON SENATE BILL NO. 59

Rep. Glaser commented that the Department has a policy to where it is an automatic extension for 2 years and they can request a subsequent 2 years. He said it appears that the Department has solved the problems that caused the bill in the beginning, and the subcommittee recommended that the bill be tabled.

Rep. Glaser moved that Senate Bill No. 59 BE TABLED. The motion carried unanimously.

DAILY ROLL CALL

BUSINESS & LABOR COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date MARCH 17, 1987

NAME	PRESENT	ABSENT	EXCUSED
REP. LES KITSELMAN, CHAIRMAN	✓		
REP. FRED THOMAS, VICE-CHAIRMAN	✓		
REP. BOB BACHINI	✓		
REP. RAY BRANDEWIE	✓		
REP. JAN BROWN	✓		
REP. BEN COHEN	✓		
REP. JERRY DRISCOLL	✓		
REP. WILLIAM GLASER	✓		
REP. LARRY GRINDE	✓		
REP. STELLA JEAN HANSEN	✓		
REP. TOM JONES	✓		
REP. LLOYD MCCORMICK	✓		
REP. GERALD NISBET	✓		
REP. BOB PAVLOVICH	✓		
REP. BRUCE SIMON	✓		
REP. CLYDE SMITH	✓		
REP. CHARLES SWYSGOOD	✓		
REP. NORM WALLIN	✓		

CHAIRMAN--SEN. JOHN "J.D." LYNCH
NORMAL SCHEDULE==> SITE: ROOM 413/415 DAYS: T-T-S TIME: 1:00 P.M.

SECRETARY-JULIE RADEMACHER

BILL NO	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
SB0008	1/03	1/13	1/13/87	none	1/05/87	
FARRELL, WILLIAM E.			OCCUPATIONAL DISEASE ACT OF MONTANA TO BE CONSTRUED STRICTLY			
SB0009	1/03	1/13	1/13/87	none	1/05/87	
FARRELL, WILLIAM E.			WORKERS' COMPENSATION ACT TO BE CONSTRUED STRICTLY			
SB0010	1/03	1/20	01/20/87, 01/29/87	4/4 he	01/05/87	
AKLESTAD, GARY C.			NO STANDARD PREVAILING WAGE ON LOCALLY FUNDED LOCAL GOVERNMENT PROJECTS			
SB0019	1/03	none			01/05/87	
AKLESTAD, GARY C.			RENEGOTIATION OF STATE EMPLOYEE COLLECTIVE BARGAINING AGREEMENTS			
SB0034	1/03	1/08	01/08/87, 01/22/87; 01/27/87; 01/29/87; 2/17/87	PASS AS AMENDED	01/05/87	2/17/87
HARDING, ETHEL M.			EXEMPT SALARIED OFFICERS, OWNERS, AND DIRECTORS FROM UNEMPLOYMENT INS.			
SB0065	1/08	none				
NORMAN, BILL			NO WORKERS' COMPENSATION BENEFITS TO A PERSON INCARCERATED FOR A FELONY			
SB0084	1/10	1/22	01/22/87	DO PASS	01/12/87	4/22/87
THAYER, GENE			DISCRETION OF LAW ENFORCEMENT AGENCY IN RESERVE OFFICERS' INSURANCE PLAN			
SB0103	1/14	1/22	01/22/87; 02/17/87	PASS AS AMENDED	01/14/87	02/17/87
HAGER, TOM			CLARIFIES METHOD FOR PAYMENT OF THE STANDARD PREVAILING RATE OF WAGES			
SB0118	1/16	1/29	01/29/87	DO PASS	01/16/87	01/29/87
HALLIGAN, MIKE			EXTEND PENALTIES AGAINST EMPLOYER WITHOUT WORKERS' COMPENSATION COVERAGE			
SB0136	1/19	2/12	02/12/87 ; 02/17/87	PASS AS AMENDED	01/19/87	02/17/87
MAZUREK, JOSEPH P.			FULL BENEFITS FOR EMPLOYEES WITH HOURS REDUCED DUE TO BUDGET DEFICIT			
SB0154	1/20	2/03	02/03/87; 02/10/87	DO PASS	1/20/87	02/10/87
KEATING, THOMAS F.			REPEAL REQUIREMENTS CONCERNING CABOOSE AS REAR TRAIN CAR			

MINUTES OF THE MEETING
LABOR AND EMPLOYMENT RELATIONS COMMITTEE
MONTANA STATE SENATE

January 29, 1987

The sixth meeting of the Labor and Employment Relations Committee was called to order by Chairman Lynch on January 29, 1987 at 1:00 p.m. in Room 413/415 of the State Capitol.

ROLL CALL: All members were present.

CONSIDERATION OF SENATE BILL NO. 118: Senator Mike Halligan, Senate District 29, stated this bill will clarify provisions of the Workers' Compensation laws. Senator Halligan stated he would explain the purpose of the bill and then he would leave to present another bill and he would be available to come back at another time if there are any questions. Senator Halligan said this bill will clarify provisions of the Workers' Compensation laws in order to make sure it is clear and that the department can pursue concurrently, both the civil and criminal suits. Senator Halligan stated that before the Department of Labor could pursue someone criminally, the employer must have ample notice and opportunity to obtain the coverage before the Department of Labor could pursue them criminally. Senator Halligan requested a representative from the Department of Labor explain their procedure of notifying employers they are in violation of the act, or that they are uninsured before any action is taken against them. Senator Halligan stated that on page 2, line 5, the remedies provided in Section 39-71-506, MCA are not neutrally exclusive. Section 506 allows for settlements, so even if they sue, there is still an allowance for a settlement out of court.

PROPONENTS: Mr. Keith Olson, representing Montana Logging Association, gave testimony in support of this bill. Mr. Olson stated his organization has been opposed to the fact there are uninsured employers, and these employers have a tremendous competitive advantage. Mr. Olson stated their only problem with this bill is that the Department of Labor deals with these employers only after an employee is injured. Mr. Olson stated his association would like to see that all employers are in compliance with the law.

Mr. Steven Shapiro, representing the Department of Labor and Industry, gave testimony in support of this bill. A copy of his testimony is attached as Exhibit 1.

Mr. Bob Robinson, representing the Department of Labor, clarified how an uninsured employer is handled by their department. Mr. Robinson stated an uninsured employer is generally identified by the division after an injury has occurred, when a report of injury was submitted and a check made to see who the insurance company was, and it is revealed there is no insurance. Mr. Robinson explained the Department of Labor then makes personal contact with the uninsured employer; an auditor is sent to the company to determine the amount of payroll paid during the uninsured period. Mr. Robinson stated the law requires a $200 fine be paid, or double the amount of premium that would have been paid had the uninsured employer been insured with the state. Normally the department will look back at a period of three years. Mr. Robinson stated if the uninsured employer objects to the penalty they have two avenues they can pursue: 1) they can ask for a contested hearing; or 2) they can request an administrator's review of the penalty. Mr. Robinson said the Department of Labor tries to give these employers the benefit of the doubt and get them into an insured plan without giving them a severe penalty; however, if there is a case of an employer who is habitually going without insurance, then the Department of Labor will make sure the penalty is strictly enforced.

Mr. Jim Murry, representing the Montana State AFL-CIO, stated his organization would like to go on record that they support this bill. Mr. Murray stated the employer who does not pay the insurance premiums has a distinct unfair competitive advantage. Mr. Murry feels this bill treats both the employer and the employee well.

Mr. Gene Fenderson, representing the Montana State Building Construction Trades Council, stated his organization supports this bill. Mr. Fenderson stated his organization is currently taking a survey on the "underground economy", which is the economy that has a cash flow operation with no taxes paid, no workers' compensation paid, and no unemployment benefits paid. Mr. Fenderson said there are a tremendous amount of companies that don't pay any of these benefits. Mr. Fenderson believes SB 118 will look into this situation.

OPPONENTS: There were none present.

QUESTIONS (OR DISCUSSION) ON SENATE BILL NO. 118:
Senator Blaylock asked Mr. Bob Robinson if there was a faster method to detect the employers who were not paying insurance. Mr. Robinson replied this could be accomplished

through better enforcement; however, the Department of Labor would need more staff to accomplish this. Mr. Robinson explained there are approximately 1,000 uninsured employer accidents reported on an annual basis, and this keeps the 1.5 allotted persons busy just trying to make contact with the reported uninsured employees. Senator Blaylock asked Mr. Robinson if their department has requested more work force. Mr. Robinson replied they had requested at least one more investigator.

Senator Keating asked Mr. Robinson if each day of violation that the employer is uninsured, is that a separate offense and could these people be fined daily. Mr. Robinson replied the law reads there is a $200 minimum penalty, or twice the premium that should have been paid, so it would not be multiplied by the number of days. Senator Keating asked Mr. Robinson if a daily rate could be determined on the premium, but the law states there will be a fine of $200 for an offense, and if each day is an offense, could they be charged for 200-300 offenses. Mr. Robinson directed this question to the Department of Labor's attorney, Mr. Steven Shapiro.

Mr. Steven Shapiro stated there were two kinds of penalties; 1) civil penalty assessed by the division for the failure of having insurance. It is calculated over the period of time when there was no insurance, and it is twice the premium that should have been paid if the employer was insured by the state fund. He stated the minimum penalty is $200 and that penalty would be one fixed penalty for the entire period when the person failed to have insurance; 2) criminal penalty would be for the criminal violation of the Department of Labor's administrative order, and this would be assessed from $0-$500 per offense, according to the discretion of the Justice of the Peace. This is labeled as a misdemeanor, which in the criminal code means $0-$500 and/or 0-6 months in jail. Mr. Shapiro stated that generally for a business offense, a Justice of the Peace will not impose a jail term. He said that as a former county prosecutor, in his opinion, the daily opening of a business without insurance constitutes a separate offense each day and could be charged against the negligent party, and that it is at the discretion of the prosecutor how many charges he would like to bring against the negligent party. Mr. Shapiro continued that the purpose of putting this into this bill is to give employers fair notice of the penalties.

Senator Thayer asked Mr. Bob Robinson if there could be some system to inform these employers they are required to

be insured because it was stated in the testimony that many of these people are unaware they are required to be insured. Senator Thayer stated it is unfortunate some people are unaware of these requirements and they could be subject to prosecution. Mr. Robinson stated the Department of Labor, the Department of Revenue and the IRS put on a series of small business clinics around the state twice a year. Mr. Robinson feels the majority of small business owners get this information from accountants or the Department of Commerce, but he doesn't know if there is a clearing house to inform all new businesses of this law. Mr. Robinson said this was something that should be looked into further.

Senator Gage asked Mr. Robinson if their enforcement personnel keep in contact with the licensing people and the Department of Revenue to keep track of the people being licensed for small businesses, and who is requesting withholding numbers, or was most of this coming from the underground. Mr. Robinson replied they do little, if any, advance notification to uninsured employers.

Senator Galt asked Mr. Shapiro if the case mentioned in his testimony (see Exhibit 1) was the sawmill case in Judith Gap, Montana, and if so, how was it settled. Mr. Shapiro stated yes, that was the case he referred to in his testimony and they pursued a court injunction in the district court in Helena and they defended on the basis they had plead guilty. Mr. Shapiro said on the same day of the hearing in the district court, the owner made arrangements with the state for coverage, so the case was dismissed.

Senator Galt asked Mr. Shapiro if a business had the option to choose the workers' compensation plan, or to go under some other company, or to even insure themselves. Mr. Shapiro explained there are three insurance plans available: 1) plan 3, the State Compensation Insurance Fund, which is the state operated insurer; 2) plan 2, all the private insurance carriers authorized to write workers' compensation insurance; and 3) plan 1, the self-insurers program, which is for large employers who have adequate assets so the Department of Labor is sure they can pay their own claims.

Senator Galt said he received a call today concerning these insurance plans. The gentleman who called Senator Galt was told by the Department of Labor it was mandatory his client have workers' compensation; however, when this gentleman talked to someone else at the Department of Labor, he was also told there were different options, but

they were not explained to him. Mr. Shapiro asked Senator Galt what type of business does this person own. Senator Galt replied it was a trucking business. Mr. Shapiro explained this person's insurance option would probably be Plan 2 or Plan 3.

The hearing on SB 118 closed.

CONSIDERATION OF SENATE BILL NO. 157: Senator Richard Manning, Senate District 18, sponsor of the bill, stated under close scrutiny of this bill, it was found it would not do what was intended and it would probably cause problems. Senator Manning recommended a Do Not Pass.

PROPONENTS: None present.

OPPONENTS: None present.

QUESTIONS (OR DISCUSSION) ON SENATE BILL NO. 157: No questions from the committee.

Senator Lynch closed the hearing on SB 157.

DISPOSITION OF SENATE BILL NO. 157: Senator Blaylock made a motion that SB 157 DO NOT PASS. The motion CARRIED UNANIMOUSLY.

DISPOSITION OF SENATE BILL NO. 118: Senator Thayer made a motion that SB 118 DO PASS. The motion CARRIED UNANIMOUSLY.

FURTHER CONSIDERATION OF SENATE BILL NO. 10: Senator Lynch stated he is opposed to this bill, because as a member of the Prevailing Wage Interim Committee, they have been going out of their way to make it more acceptable, and they have eliminated most of the problems in creating the threshold from $3,000 to $7,500 so small maintenance work does not come under prevailing wage. Senator Lynch feels they have gone out of their way to create some different prevailing wage districts, particularly in eastern Montana because there are now 18 counties, and the largest city will be Miles City rather than using the Billings prevailing wage. Senator Lynch feels this committee is making strides in the right direction.

Senator Haffey also stated he would think local county county commissioners, city council members, or the mayor would be concerned about the information from previous testimony where it was stated without the prevailing wage there have been cases where the wage is more than the

LABOR AND EMPLOYMENT RELATIONS COMMITTEE

50th LEGISLATIVE SESSION -- 1987 Date Jan. 19 1987

NAME	PRESENT	ABSENT	EXCUSED
John "J.D." Lynch Chairman	X		
Gene Thayer Vice Chairman	X		
Richard Manning	X		
Thomas Keating	X		
Chet Blaylock	X		
Delwyn Gage	X		
Jack Haffey	X		
Jack Galt	X	X	

Each day attach to minutes.

DATE Jan. 29, 1987

COMMITTEE ON Labor & Employment Relations

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Steven Shapiro	Dept. of Labor	SB118	X	
Hiram Shaw	Work. Comp.	SB113		
Steve Seifert	CFAC			
Keith Olson	MT. Logging Assn	SB118	✓	
Jim Murry	Mont. AFL-CIO	"	✓	

NAME: STEVEN SHAPIRO DATE: 1/29/87

ADDRESS: 5 S. Last Chance Gulch, Helena

PHONE: 444-6520

REPRESENTING WHOM? Dept. of Labor + Industry

APPEARING ON WHICH PROPOSAL: SB 118

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: Copy of testimony provided.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

ROLL CALL VOTE

SENATE COMMITTEE LABOR AND EMPLOYMENT RELATIONS

Date January 29 1987 Bill No. SB 118 Time 1:30 p.m.

NAME	YES	NO
John "J.D." Lynch, Chairman	X	
Gene Thayer, Vice Chairman	X	
Richard Manning	X	
Thomas Keating	X	
Chet Blaylock	X	
Delwyn Gage	X	
Jack Haffey	X	
Jack Galt	X	

Julie Rademacher
Secretary

John "J.D." Lynch
Chairman

Motion: Do Pass

1987

STANDING COMMITTEE REPORT

January 29, 19 87

MR. PRESIDENT

We, your committee on LABOR AND EMPLOYMENT RELATIONS

having had under consideration SENATE BILL No. 118

first reading copy (white color)

EXTEND PENALTIES AGAINST EMPLOYER WITHOUT WORKERS' COMPENSATION COVERAGE

Respectfully report as follows: That Senate Bill No. 113

DO PASS

~~DO NOT PASS~~

Sen. John "J.D." Lynch Chairman.

he has obtained insurance coverage. Frequently we find that the uninsured employer does not heed our order. In that case, 39-71-507, MCA, provides that an employer who fails to obey our order to cease operations may be charged with a misdemeanor criminal offense.

We have run into problems with pursuing violation of our order only as a criminal offense. First, county attorneys may generally view this offense as a relatively low priority and may not get to it promptly or at all. Second, the penalty imposed by the justice court on the employer, $0 to $500 and/or no time to six months in jail, may be accepted by the employer as just a routine cost of doing business. In the short run, minimal fines paid may be cheaper than insurance premiums, but a serious injury may spell disaster for both the employer and employee.

In a much publicized case last year, an employer intentionally and very openly dropped his coverage because of the expense and declared that he would operate without it. At our insistance the county attorney reluctantly charged him with one misdemeanor count. The employer plead guilty and was given a fine of $25, all suspended. So in this case their was no actual cost of doing business in the criminal charge. When we sought an injunction against the employer in District Court, his attorneys tried to defend him on the basis of an argument that by the imposition of the criminal penalty we were barred

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 1
DATE 1/29/87

from seeking a civil injunction despite the fact that the employer continued to operate without insurance in a workplace with dangerous machinery and a high injury record.

The Department feels that it is important to clarify that the Division may pursue all available remedies concurrently in order to minimize the risk of uninsured injuries to Montana workers. In a similar way, the Legislature has already clearly set forth the concurrent remedies that the Department of Health and Environmental Sciences may pursue in regards to hazardous waste facilities and junk vehicle facilities in Title 75, Chapter 10, Parts 4 and 5, MCA.

The Department urges the Committee to recommend that SB118 do pass in order to clarify the remedies available against uninsured employers.

>>>> END <<<<

January 29, 1987
Helena, Montana

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 1
DATE 1/29/87
BILL NO. SB 118